

Recording Requested by:

Placer County Department of
Facilities Management

When Recorded Mail to:

Placer County Department of
Facilities Management
11476 C Avenue
Auburn, CA 95603
Attn: Property Manager
ONLY

THIS SPACE FOR RECORDERS USE

LICENSE AGREEMENT FOR
APNS 097-153-005-000; 097-154-001-000;
097-154-005-000; 097-140-040-000

CONTRACT NO:

ADMINISTERING AGENCY: Department of Facilities Management

This License Agreement ("Agreement") is made this _____ day of _____, 2020, by and between the County of Placer, a political subdivision of the State of California ("County"), Obexer and Son, Inc., a California corporation ("Obexer and Son"), and Obexer Family LLC, a California limited liability company ("Obexer Family"). As used herein, the term "Obexer" shall refer simultaneously to both Obexer and Son and Obexer Family. County, Obexer and Son, and Obexer Family may be referred to herein individually as a "Party" or collectively as the "Parties."

RECITALS:

WHEREAS, the Lake Boulevard right of way ("the County Property Interest") located on that certain real property in Homewood, CA, identified as APN 097-154-005-000, was dedicated by the McKinney Tract subdivision map filed in 1909; and

WHEREAS, in 1968, the County filed an action for declaratory relief in the Placer County Superior Court against Obexer and Son to determine the parties' respective rights to the County Property Interest; and

WHEREAS, the court's judgment in that case was that there exists upon the parcel "designated as Lake Boulevard [on the aforesaid map] an easement for public highway use"; and

WHEREAS, the Court of Appeal subsequently affirmed that judgment in an unpublished opinion, *County of Placer v. Obexer & Sons, Inc., et al.* (1972) 3 Civil 13135; and

WHEREAS, on January 14, 1975, the County and Obexer and Son executed a deed and lease agreement, and the Placer County Board of Supervisors abandoned via resolution the subject right of way, "reserving therefrom easements and right to construct, maintain, operate, remove and renew sanitary sewers, storm drains, water lines, and any other public facilities incidental thereto, including the right to ingress and egress, ... and further reserving therefrom and excepting therefrom an easement for a future public road, including all easements incident thereto..."; and

WHEREAS, Paragraph 13 of the aforesaid deed and lease agreement specified that upon termination of the lease, each party would retain its "respective right, title, and interest in and to the property which is the subject of the lease herein as such right, title and interest existed immediately prior to August 1, 1974"; and

WHEREAS, from 1974 to 1994, Obexer and Son leased the County Property Interest from the County in exchange for triannual lease payments to the County. In 1994, Obexer and Son elected not to renew its lease of the County Property Interest; and

WHEREAS, Obexer denies the validity of the County Property Interest, and this license is being entered into by both Parties without prejudice to their respective claims of fee ownership, use rights, or any other potential claims; and

WHEREAS, Obexer and Son wishes to exclusively occupy a portion of the County Property Interest for use in its marina and boat storage business; and

WHEREAS, County is willing to provide Obexer and Son a temporary license allowing exclusive occupancy of a portion of the County Property Interest ("Obexer License Area," as shown on Exhibit A) in exchange for the public benefits detailed below.

AGREEMENT:

NOW, THEREFORE, IT IS HEREBY AGREED:

1. Recitals. The Recitals set forth above are hereby incorporated into this Agreement as if set forth in full herein.

2. Scope of Agreement. The real property subject to this Agreement consists of the following APNs located on, or in close proximity to, West Lake Boulevard in Homewood, CA: 097-153-005-000, 097-154-001-000, 097-154-005-000, 097-140-040-000 (the "Property"). A map depicting the Property is attached hereto as Exhibit A and incorporated herein by reference.

3. Use. This Agreement is intended to improve the functionality, quality, and safety of current public access rights to Lake Tahoe from the Property. To effectuate this intent, it is agreed that:

A. County hereby grants Obexer a license to exclusively use a portion of the County Property Interest, depicted as the Obexer License Area on Exhibit A, in connection

with its existing marina and boat storage use on the Property. The Obexer License Area excludes the North Beach and South Beach Area shown on Exhibit A. No permanent structures or other improvements shall be constructed within the Obexer License Area without County's advance written approval, which may be withheld in the County's sole discretion.

B. Obexer hereby grants County a license to operate public access pathways within fifteen foot (15') wide access areas (the "Public Access Areas") on the Property, as generally depicted in Exhibit A and generally described as follows:

- i. Public Access Area A: From Highway 89 to the North Beach Area along the northern edge of the Property, specifically APN 097-140-040-000.
- ii. Public Access Area B: From Highway 89 to the North Beach Area if one-way loop access is constructed on APN 097-140-040-000 of the Property. This alternative would allow public access from the end of South Street to the North Beach Area. Public Access Area B is an alternative to Public Access Area A. Under this alternative, a dedicated walking area must be provided for pedestrians that is separate from vehicular traffic lanes.
- iii. Public Access Area C: From the public bike trail to Highway 89 along the southern portion of the Property, specifically on APN 097-153-005-000.
- iv. Public Access Area D: From Highway 89 to the South Beach Area along the southern edge of the Property, specifically on APNs 097-154-001-000 and 097-154-005-000.

C. Throughout the Term, Obexer shall allow public use of the South Beach Area and North Beach Area and shall offer the following public benefit services: Placer County Sheriff and U.S. Coast Guard boat launching at no cost from the Boat Launch shown on Exhibit A; TCPUD Sailing School instruction and boat storage in the North Beach Area at no cost; and continued public access to boat fueling.

4. Timeline for Use of Public Access Areas.

- A. The public will be permitted to use the South Beach and North Beach Areas immediately upon execution of this Agreement.
- B. By June 1, 2021, Public Access Area C will be marked with pavement striping and signage, free of obstructions such as boats, vehicles, and equipment, and available for public use.
- C. By June 15, 2021, Public Access Areas A and D will be marked with signage, free of obstructions such as boats, vehicles, and equipment, and available for public use.

- D. After the dates specified in this section, Obexer shall not obstruct, impede, or impair the public from traveling within the Public Access Areas. Obexer is not required to improve the Public Access Areas by the dates in this section.
- E. As an alternative or in addition to remedies elsewhere in this Agreement, following the dates in this section, the County may remove any obstructions from the Public Access Areas and Beach Areas.

5. Improvements. Within the Initial Term, as defined in Section 6 below, Obexer shall design and construct pedestrian pathway improvements (the "Improvements") within the Public Access Areas A, C, and D. The Improvements shall be paths at least six (6) feet in width. Such paths may be paved but could also consist of decomposed granite or a similar material.

- A. Obexer shall consult with County regarding design and material selection for the Improvements prior to applying for permits therefor.
- B. Obexer shall assume all costs of and obtain all required County, Tahoe Regional Planning Agency (TRPA), Caltrans, and other agency permits needed for the Improvements.
- C. Obexer shall meet any and all TRPA "land coverage" requirements in connection with this Agreement. County will cooperate with and support Obexer in applying for any applicable coverage exemption, which may include the "linear public facilities" exemption for public right-of-ways that are improved to permit vehicular, pedestrian, and bicycle traffic.
- D. Obexer is required to maintain and repair the Improvements, but Obexer shall not be required to remove snow from the Improvements. Obexer shall not permit any party to store snow on the Public Access Areas, and Obexer shall not store snow on the Public Access Areas, except that Obexer may store snow on Access Area D until May 1 of each year, on which date any remaining snow must be cleared. County shall have the right, but not the duty, to remove snow or other obstructions from the Public Access Areas, including the Improvements.

6. Term.

- A. The Initial Term of the Agreement is four (4) years, commencing upon execution of this Agreement by all Parties. Within that time, Obexer must complete construction of the Improvements.
- B. Upon acceptance of the Improvements by the County, a ten (10) year term will automatically commence.

7. Vehicular Loop. As noted in Section 3(B)(ii) above, the addition of the one-way vehicular loop connected to South Street (adjacent to Public Access Area B) is not required as part of this Agreement. County would consider such a proposal, but Obexer would be solely

responsible for obtaining Caltrans, TRPA, County, and other agency approvals and providing any “surface coverage” required by TRPA. Were this vehicular loop alternative approved by permitting agencies, County would allow the Improvements within Public Access Area A to be replaced by new Improvements within Public Access Area B in connection with the one-way vehicular loop as long as the new Improvements were equivalent or superior to the Improvements being replaced from the standpoint of pedestrian access. Any such loop must provide a dedicated walking area for pedestrians that is separate from vehicular traffic lanes.

8. Improvement Plans. As noted in Section 7, the construction of a vehicular loop is not required under this Agreement. However, the County strongly supports such a project, and recognizes the public benefit it would provide to the community in providing vehicular, pedestrian and bicycle travel. The County has done an initial, preliminary review of draft plans, attached hereto as Exhibit E. The County agrees to support project plans that are in substantial conformance with those attached as Exhibit E but cannot guarantee approval since doing so would result in a contracting away of the County’s right to exercise its police power to review the project in the future. (See *Alameda County Land Use Assn. v. City of Hayward* (1995) 38 Cal.App.4th 1716, 1724.) To the extent that there is a conflict or ambiguity between Exhibits A and E, the more specific Exhibit E shall govern for the purposes of this Agreement.

9. Change in Use. If there is a change in use of the Property from the current marina and boat storage use, this Agreement shall be subject to termination at County’s sole discretion, in which case Obexer’s exclusive use of the Obexer License Area would cease. “Change in use” shall encompass not just conversion and elimination of the existing marina and boat storage use, but the addition of new uses to the existing marina and boat storage use that are not accessory to the marina and boat storage use. New accessory uses are subject to approval by the Placer County Community Development Resource Agency.

- A. The current uses of the Property include:
- i. Indoor and outdoor boat storage on racks, stands, trailers, etc.
 - ii. Slips and buoys
 - iii. Travel/driveway areas for boats, trailers, vehicles, and equipment, including but not limited to Trucks, Tractor, Forklifts, Travelift, Crane, Loader etc.
 - iv. Work area mechanical work, fiberglass, wooden boat repair and refinish, and bottom repair on boats
 - v. Sailboat rigging and derigging including mast stepping and unstepping
 - vi. Boat launching on ramp via Truck, Tractor & Loader and Launch Bay using Forklift, Travelift, and Crane
 - vii. Fuel dock operations & Pier Office for cashing handling
 - viii. Jet ski and boat rentals with charter services
 - ix. Commercial office space in Building 3 on Exhibit A.
 - x. General Store in Building 3 on Exhibit A.
 - xi. Four residential units, specifically in Buildings 2, Building 3 (contains two residential units) and Building 6 on Exhibit A.
 - xii. Special Events on occasion including but not limited to Wooden Boat Show/Lake Tahoe Concours d’Elegance

10. Signs & Markings. Obexer shall fabricate, install, and maintain at its sole expense two (2) directional signs along Highway 89 to indicate public access to the North Beach Area and the South Beach Area. Obexer may also install informational, safety-oriented, and warning signs at the locations of its choosing as required to protect public safety and to improve vehicle and pedestrian access flows. Any and all Obexer signage design and location shall be subject to prior County approval and cannot discourage, impede, or prohibit public travel along the Public Access Areas. County may advertise the public access authorized by this Agreement and shall not be limited as to installation of additional signage at County's own expense.

For Public Access Area C, Obexer shall indicate the access area by pavement markings or other markings as approved by the County.

11. Damage or Destruction. If any of the Improvements are damaged or destroyed by an event of casualty, Obexer shall, at its sole cost, reconstruct said Improvements in substantially the same form as they existed prior to said damage or destruction, in accordance with the regulatory standards in effect at that time. If the term of the Agreement has less than two (2) years remaining prior to expiration, Obexer may elect to terminate the Agreement and immediately vacate the Obexer License Area in lieu of reconstructing said Improvements.

12. Breach, Disputes, and Remedies. In the event a Party claims any other Party has breached or defaulted in the performance of any obligation of this Agreement or there arises any dispute concerning or arising out of this Agreement, the Party claiming the default or breach shall provide written notice to the defaulting Party of the default and/or breach and the defaulting Party shall have thirty (30) days from the date of the notice of default to cure said default or resolve the dispute; provided, however, if the nature of the default is such that the default cannot reasonably be cured within said thirty (30) day period, the defaulting Party shall not be deemed to be in default if, within said thirty (30) day period, the defaulting Party commences such cure and thereafter diligently prosecutes the same to completion within a reasonable period of time given the nature of the cure required (the "Cure Period").

In the event that the default or breach is not cured, or the dispute is not resolved within the Cure Period, then the Party claiming the default or breach shall be entitled to exercise the right of immediate termination of this Agreement and/or to bring an action at law or suit in equity to obtain redress, including specific performance, injunctive relief, or any other available remedy.

13. No Grant of Interest in Land. The Parties acknowledge that this Agreement does not grant to or create in County or Obexer any fee, leasehold, or other estate in land, including any interest in land to the County north of South Street. However, should a court of competent jurisdiction conclude that this Agreement does create in Obexer a leasehold interest and/or other estate in land, Obexer agrees that it is a "post-acquisition tenant" within the meaning of the California Relocation Assistance Law (Cal. Gov. Code § 7260 et seq.) and the State Guidelines promulgated thereunder ("Law"). Obexer agrees to waive and hereby waives all eligibility and rights for relocation costs or any other benefits available as a "displaced person" (as defined in the Law) upon termination of this Agreement. Obexer agrees and acknowledges that it has reviewed this section, and the entirety of this Agreement, with legal counsel of its own choosing, or has knowingly declined the opportunity to do so.

SO
SO _____ **Obexer and Son's Initials**

SO
SO _____ **Obexer Family's Initials**

14. No Relinquishment of Interest. No Party to the Agreement intends to, or does, hereby waive, relinquish, or transfer to the other Party any of its rights, title or interest in the Obexer License Area, the Public Access Areas, the South Beach Area, or the North Beach Area, or waive any claim or defense it may have with regard to title to, or use rights of, said Areas. Upon termination of this Agreement, none of the terms of this Agreement, nor any performance due by any Party hereunder, shall be interpreted so as to change the respective rights of either Party in and to the Obexer License Area, the Public Access Areas, the South Beach Area, or the North Beach Area as such rights existed prior to the date of this Agreement.

15. Non-Assignment. This Agreement is personal to the Parties and shall not be assignable, except to the successors-in-interest of Obexer's interest in the Property and County's interest in the County Property Interest.

16. Taxes. To the extent that this Agreement is deemed to create a possessory interest in the Obexer License Area, Obexer shall pay any and all property taxes levied on said possessory interest. (See Cal. Rev. & Tax. Code § 107.6, attached hereto as Exhibit B, and incorporated herein by reference.) Obexer shall also pay any other personal property, real property, or other taxes resulting from Obexer's use of the Obexer License Area, or County's use of the Public Access Areas, the South Beach Area, or North Beach Area.

17. Joint and Several Liability. Obexer and Son and Obexer Family shall be jointly and severally liable for Obexer's obligations under this Agreement.

18. Hold Harmless. Obexer shall indemnify, defend, and hold County harmless from and against any and all claims of liability for any injury, death, or damage to any person or property occurring in, on or about the Obexer License Area. County shall indemnify, defend, and hold Obexer harmless from any and all claims of liability for any injury, death, or damage to any person or property occurring in, on or about the Public Access Areas, the South Beach Area, and North Beach Area, unless said injury, death, or damage: (1) arises from the negligent, reckless, or intentional acts or omissions of Obexer, its officers, agents, employees, contractors, or invitees, or (2) is related to the design, maintenance, or repair of the Improvements, in which case Obexer shall indemnify, defend, and hold County harmless. A Party shall provide notice to the other Party within five (5) working days of the date when the former is made aware of the occurrence of such a claim. This section shall survive expiration or termination of this Agreement for any claims of liability that occurred during the term of the Agreement.

19. Insurance. Obexer shall maintain property and liability insurance for the Obexer License Area, the Public Access Areas, the South Beach Area, and the North Beach Area in the amounts required pursuant to Exhibit C, attached hereto, and incorporated herein by reference. Obexer shall have the County, its officers, agents, and employees named as additional insureds under Obexer's liability insurance policy. Obexer waives any rights of subrogation against the

County, its officers, agents, and employees, for liability arising out of the use, maintenance, or repair of the Obexer License Area, the Public Access Areas, the South Beach Area, and the North Beach Area.

20. Notice. Any notices provided pursuant to this Agreement shall be provided by personal service, email (deemed served upon written confirmation of receipt), or U.S. Mail to the following addresses:

County:

County of Placer
Department of Facilities Management
Attn: Property Manager
11476 C Avenue
Auburn, CA 95603
Email: FACPropMgmt@placer.ca.gov

Obexer:

Obexer & Son Inc
c/o Sarah Obexer
P.O. Box 186
5300 West Lake Blvd.
Homewood, CA 96141

21. General Provisions. This Agreement is subject to the General Provisions set forth in Exhibit D, attached hereto and incorporated into this Agreement as if set forth in full herein.

[SIGNATURE PAGE AND EXHIBITS FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day, month and year identified below.

COUNTY OF PLACER

Steve Newsom, Director of Facilities Management

Dated: _____

Approved as to Form:

mtidelf

Placer County Counsel

OBEXER AND SON, INC., A CALIFORNIA CORPORATION

By: *Sarah Obexer*
Sarah Obexer (Apr 3, 2021 23:02 PDT)

Sarah Obexer

Dated: Apr 3, 2021

Approved as to Form:

Gregg R Lien
Gregg R Lien (Apr 2, 2021 13:37 PDT)

Gregg Lien, Counsel for Obexer and Son, Inc.

OBEXER FAMILY LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

By: *Sarah Obexer*
Sarah Obexer (Apr 3, 2021 23:02 PDT)

Sarah Obexer

Dated: Apr 3, 2021

Approved as to Form:

Gregg R Lien
Gregg R Lien (Apr 2, 2021 13:37 PDT)

Gregg Lien, Counsel for Obexer Family LLC

[EXHIBITS FOLLOW]

EXHIBIT A: Property Map

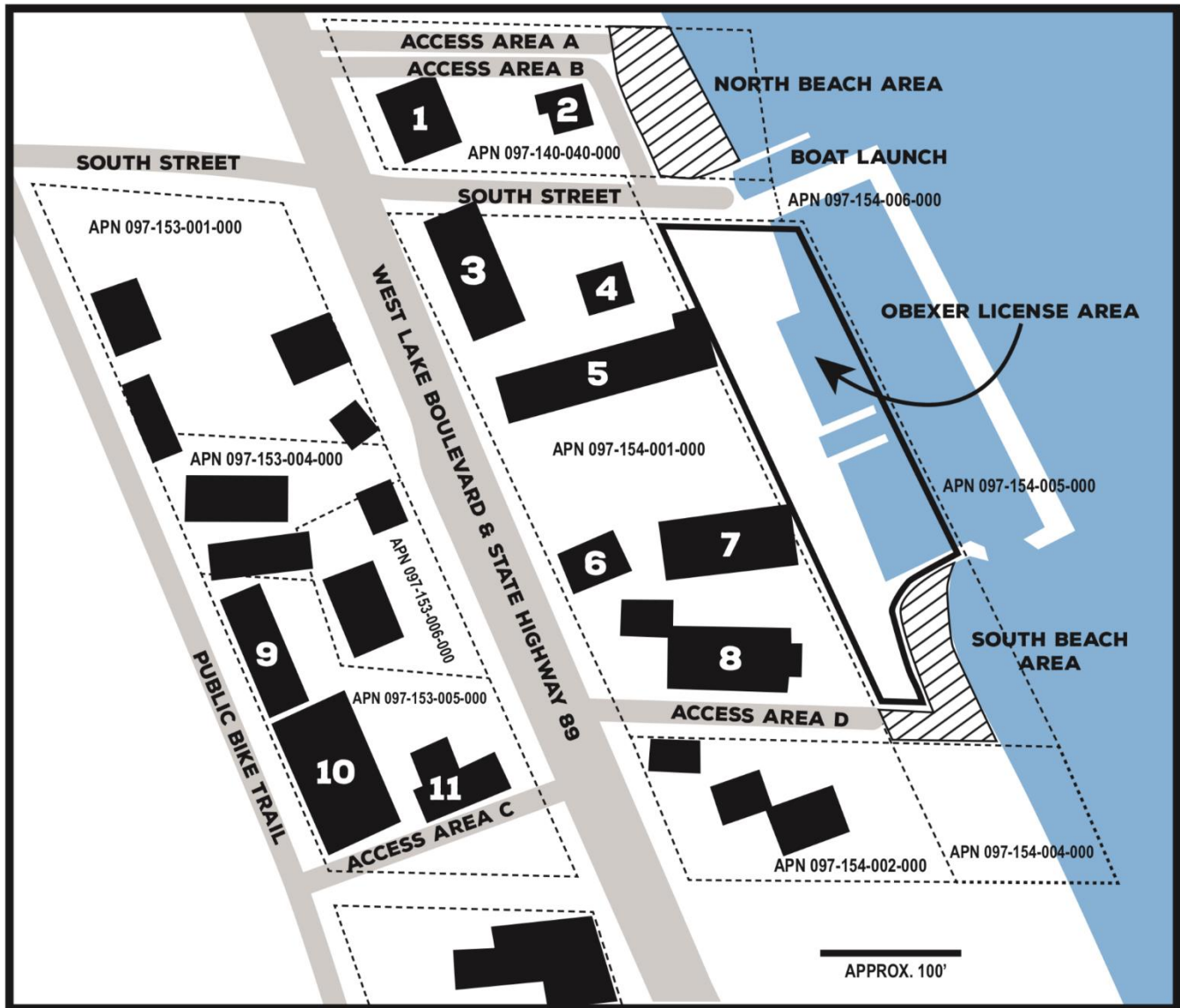
EXHIBIT B: Cal. Rev. & Tax. Code § 107.6

EXHIBIT C: Insurance Requirements

EXHIBIT D: General Provisions

EXHIBIT E: Draft Improvement Plans

EXHIBIT A PROPERTY MAP



OBEXER STRUCTURES

1. MARINE SUPPLIES BUILDING
2. BROWN HOUSE BUILDING
3. GENERAL STORE
4. OFFICE BUILDING
5. BOAT STORAGE
6. MECHANICS SHOP BUILDING
7. BOAT STORAGE
8. GARAGE & BOAT STORAGE
9. BOAT STORAGE
10. BOAT STORAGE
11. WEST SHORE SPORTS

PUBLIC ACCESS AREAS

- A. FROM HWY 89 TO NORTH BEACH AREA
- B. ALTERNATIVE TO AREA A. HWY 89 TO NORTH BEACH AREA, CONNECTING TO LOOP
- C. FROM PUBLIC BIKE TRAIL TO HWY 89
- D. FROM HWY 89 TO SOUTH BEACH AREA

**PUBLIC SHALL HAVE ACCESS TO
NORTH BEACH AREA AND SOUTH BEACH AREA**

EXHIBIT B
REVENUE & TAXATION CODE § 107.6

State of California

REVENUE AND TAXATION CODE

Section 107.6

107.6. (a) The state or any local public entity of government, when entering into a written contract with a private party whereby a possessory interest subject to property taxation may be created, shall include, or cause to be included, in that contract, a statement that the property interest may be subject to property taxation if created, and that the party in whom the possessory interest is vested may be subject to the payment of property taxes levied on the interest.

(b) Failure to comply with the requirements of this section shall not be construed to invalidate the contract. The private party may recover damages from the contracting state or local public entity, where the private party can show that without the notice, he or she had no actual knowledge of the existence of a possessory interest tax.

The private party is rebuttably presumed to have no actual knowledge of the existence of a possessory interest tax.

In order to show damages, the private party need not show that he or she would not have entered the contract but for the failure of notice.

(c) For purposes of this section:

(1) "Possessory interest" means any interest described in Section 107.

(2) "Local public entity" shall have the same meaning as that set forth in Section 900.4 of the Government Code and shall include school districts and community college districts.

(3) "State" means the state and any state agency as defined in Section 11000 of the Government Code and Section 89000 of the Education Code.

(4) "Damages" mean the amount of the possessory interest tax for the term of the contract.

(Amended by Stats. 1996, Ch. 1087, Sec. 14. Effective January 1, 1997.)

EXHIBIT C INSURANCE REQUIREMENTS

OBEXER shall file with COUNTY concurrently with the execution of the License Agreement, a Certificate of Insurance, in companies acceptable to County, with a Best's Rating of no less than A- VII showing:

A. Worker's Compensation and Employer's Liability Insurance

1. Worker's Compensation Insurance shall be provided as required by any applicable law or regulation. Employer's liability insurance shall be provided in amounts not less than one million dollars (\$1,000,000) each accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit for bodily injury by disease, and one million dollars (\$1,000,000) each employee for bodily injury by disease.
2. If there is an exposure of injury to OBEXER employees under the U.S. Longshoremen's and Harbor Worker's Compensation Act, the Jones Act, or under laws, regulations, or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.
3. Each Worker's Compensation policy shall be endorsed with the following specific language:
 - a. Cancellation Notice: "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer."
 - b. OBEXER shall require all contractors to maintain adequate Workers' Compensation insurance. Certificates of Workers' Compensation insurance shall be filed forthwith with COUNTY upon demand.
 - c. Waiver of Subrogation: The workers' compensation policy shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against the COUNTY, its officers, directors, officials, employees, agents or volunteers, which might arise by reason of payment under such policy in connection with performance under this agreement by the OBEXER.

B. Property Insurance. OBEXER shall procure and maintain full replacement cost with no coinsurance penalty provision.

C. General Liability Insurance

1. Comprehensive General Liability or Commercial General Liability insurance covering all operations by or on behalf of OBEXER, providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:

- a. Fire Damage Leal Liability Insurance to protect against any liability incidental to the use of the Property or resulting from any accident occurring in or about the Property. OBEXER shall also provide All Risk Property Insurance for any improvements installed by OBEXER. Such coverage shall be an amount equal to the value of the improvements.
 - b. Contractual liability insuring the obligations assumed by OBEXER in this Agreement.
2. One of the following forms is required:
 - a. Comprehensive General Liability;
 - b. Commercial General Liability (Occurrence); or
 - c. Commercial General Liability (Claims Made).
3. If OBEXER carries a Comprehensive General Liability policy, the limits of liability shall not be less than a Combined Single Limit for bodily injury, property damage, and Personal Injury Liability of:
 - a. One million dollars (\$1,000,000) each occurrence
 - b. Two million dollars (\$2,000,000) aggregate
4. If OBEXER carries a Commercial General Liability (Occurrence) policy:
 - a. The limits of liability shall not be less than one million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)
 - b. If the policy does not have an endorsement providing that the General Aggregate Limit applies separately, or if defense costs are included in the aggregate limits, then the required aggregate limits shall be two million dollars (\$2,000,000).
5. Special Claims Made Policy Form Provisions:

OBEXER shall not provide a Commercial General Liability (Claims Made) policy without the express prior written consent of County, which consent, if given, shall be subject to the following conditions:

 - a. The limits of liability shall not be less than:
 - i. One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)
 - ii. Two million dollars (\$2,000,000) General Aggregate
 - b. The insurance coverage provided by OBEXER shall contain language providing coverage up to one (1) year following the expiration of the term in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims-made policy.

6. Endorsements. Each Comprehensive or Commercial General Liability policy shall be endorsed with the following specific language:
 - a. "The County of Placer, their officers, agents, employees, and volunteers are to be covered as an additional insured for all liability arising out of the operations by or on behalf of the named insured in the performance of this Agreement."
 - b. "The insurance provided by OBEXER, including any excess liability or umbrella form coverage, is primary coverage to the County of Placer with respect to any insurance or self- insurance programs maintained by the County of Placer and no insurance held or owned by the County of Placer shall be called upon to contribute to a loss."
 - c. "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer."

D. Additional Insurance Requirements

1. Premium Payments: The insurance companies shall have no recourse against the COUNTY and funding agencies, its officers, and employees or any of them for payment of any premiums or assessments under any policy issued by a mutual insurance company.
2. Policy Deductibles: OBEXER shall be responsible for all deductibles in all of OBEXER'S insurance policies. The amount of deductible for insurance coverage required herein should be reasonable and subject to COUNTY'S approval.
3. OBEXER'S Obligations: OBEXER'S indemnity and other obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this agreement.
4. Verification of Coverage: OBEXER shall furnish the COUNTY with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this exhibit. All certificates and endorsements are to be received and approved by the COUNTY upon execution of this Agreement. However, failure to obtain the required documents at that time shall not waive OBEXER'S obligation to provide them. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
5. Material Breach: Failure of the OBEXER to maintain the insurance required by this agreement, or to comply with any of the requirements of this section, shall constitute a material breach of the entire agreement.

EXHIBIT D
GENERAL PROVISIONS

1. ENTIRE AGREEMENT.

This Agreement and any attachments hereto constitute the sole, final, complete, exclusive, and integrated expression and statement of the terms and conditions of the agreement among the Parties hereto concerning the subject matter addressed herein, and supersede all prior negotiations, representations, or agreements, oral or written, that may be related to the subject matter of this Agreement.

2. EXHIBITS.

Any and all exhibits referred to in and/or attached to this Agreement are hereby incorporated into this Agreement as if set forth in full herein.

3. AMENDMENTS.

No revision or amendment to this Agreement shall be valid unless made in writing and signed by duly authorized representatives of all Parties.

4. FURTHER ASSURANCES.

From time to time, either Party, at the request of the other Party, and without further consideration, shall execute and deliver further instruments and take such other actions as the requesting Party may reasonably require to complete more effectively the transactions contemplated by this Agreement.

5. TIME OF THE ESSENCE.

Time is of the essence with respect to the obligations to be performed under this Agreement.

6. NO THIRD-PARTY BENEFICIARY.

This Agreement is made and entered into for the sole protection and benefit of the Parties and their successors and assigns. This Agreement is not intended to, and shall not be construed to, create any right on the part of any third party to bring any action or otherwise enforce any of its terms.

7. STATUS OF EMPLOYEES.

All persons performing services for Obexer shall be solely employees or contractors of Obexer and not employees of County, except those persons expressly and directly employed by County. Furthermore, Obexer is not an agent of County.

8. CONSTRUCTION AND INTERPRETATION.

It is agreed and acknowledged by the Parties that the provisions of this Agreement have been arrived at through negotiation, and that each of the Parties has had a full and fair opportunity to review the provisions of this Agreement and to have such provisions reviewed by legal counsel. Therefore, the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not apply in construing or interpreting this Agreement.

9. CAPTIONS.

The captions in this Agreement are for convenience only and shall not be deemed to be relevant in resolving any question of interpretation or construction of any section or paragraph of this Agreement. All references to section numbers refer to sections in this Agreement.

10. COUNTERPARTS.

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which when affixed together shall constitute but one and the same instrument.

11. SEVERABILITY.

The invalidity of any term or provision of this Agreement as determined by a court of competent jurisdiction shall in no way affect the validity of any other provision hereof. Each remaining term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

12. WAIVER.

The failure of any Party to insist upon strict performance of any of the terms, covenants, or conditions of this Agreement shall not be deemed a waiver of any right or remedy that said Party may have and shall not be deemed a waiver of said Party's right to require strict performance of all terms, covenants, and conditions thereafter, nor a waiver of any remedy for the subsequent breach of any of the terms, covenants, or conditions.

13. FORCE MAJEURE.

If any Party hereto shall be delayed or prevented from the performance of any act required hereunder by reason of acts of God, strikes, lockouts, labor troubles, inability to procure materials, or other cause without fault and beyond the control of the Party obligated (financial inability excepted), performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

14. LEGAL JURISDICTION.

The Parties hereto expressly agree that this Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of California. Venue for any disputes shall be the Superior Court for the State of California, in Placer County. The Parties hereby waive any federal court removal rights and/or original jurisdiction rights that they may have.

15. AUTHORITY OF DIRECTOR.

The Director of Facilities Management (Director), or designee, shall administer this Agreement on behalf of County. Unless otherwise provided herein or required by applicable law, the Director shall be vested with all rights, powers, and duties of County hereunder.

16. AUTHORITY OF EXECUTION.

Each person executing this Agreement on behalf of a Party represents and warrants that such person is duly and validly authorized to do so on behalf of the entity which it purports to bind.

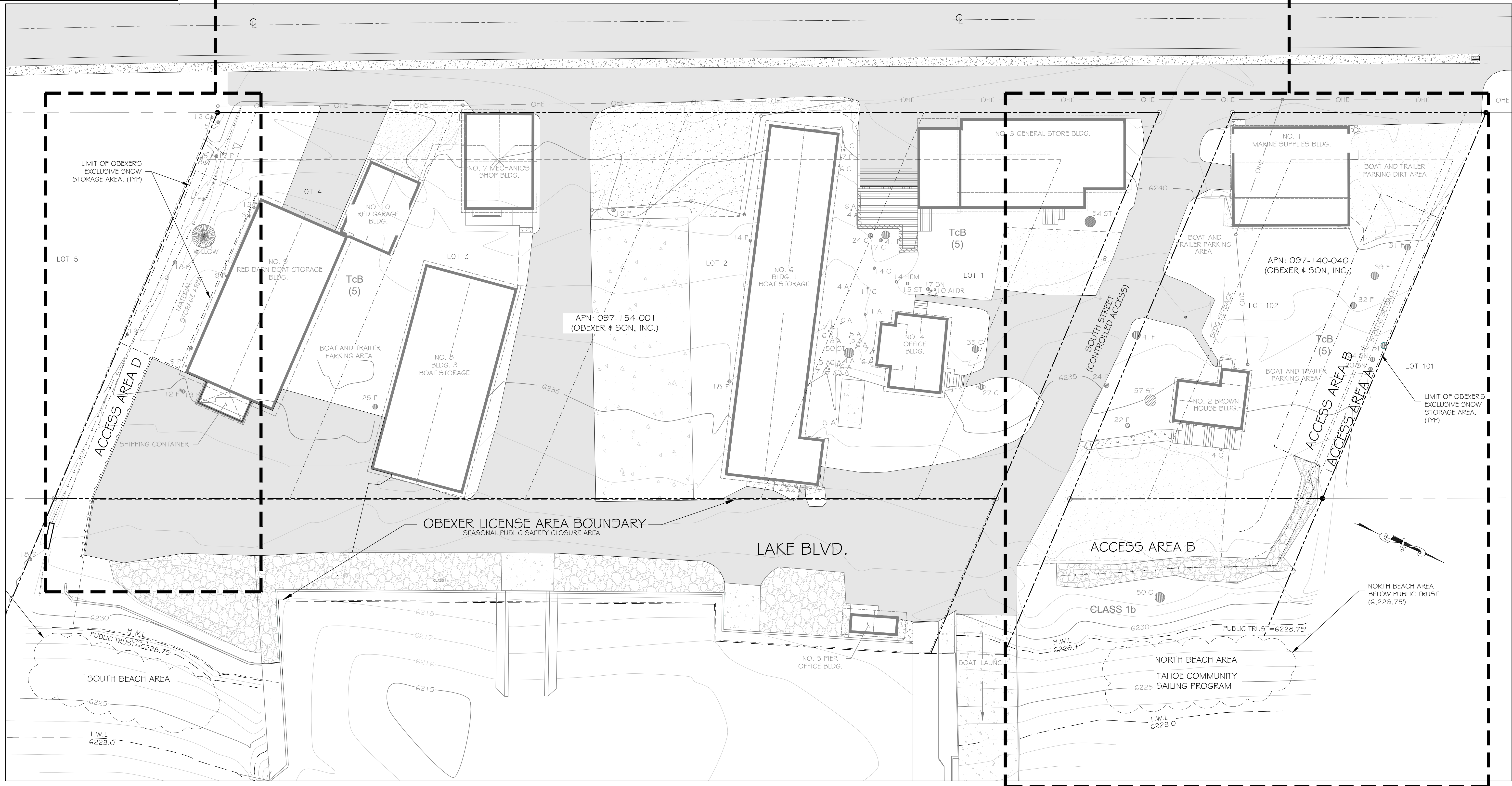
EXHIBIT E
DRAFT IMPROVEMENT PLANS

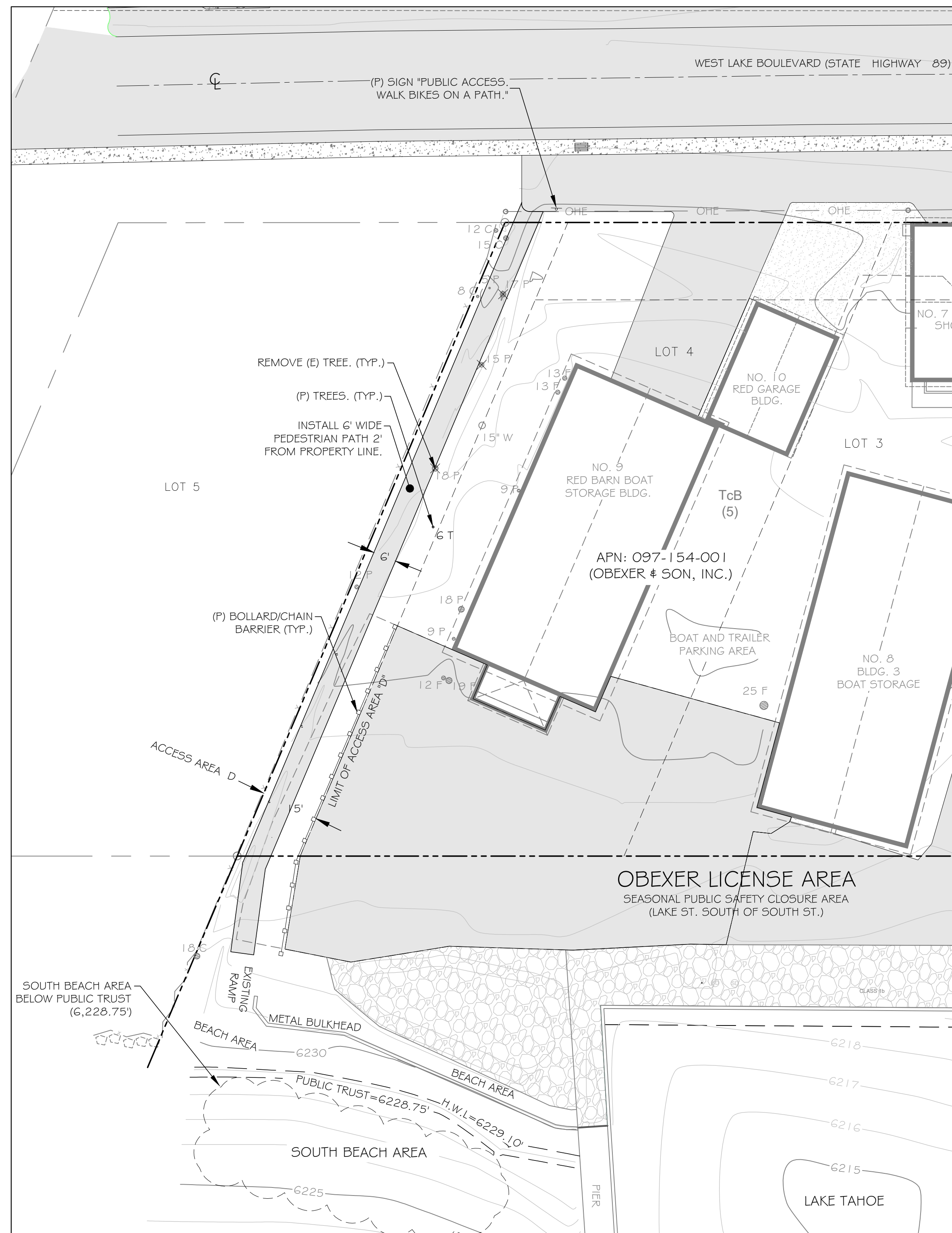
[Plans follow on next two pages]

VEHICULAR AND PEDESTRIAN CIRCULATION IMPROVEMENTS - MASTER PLAN

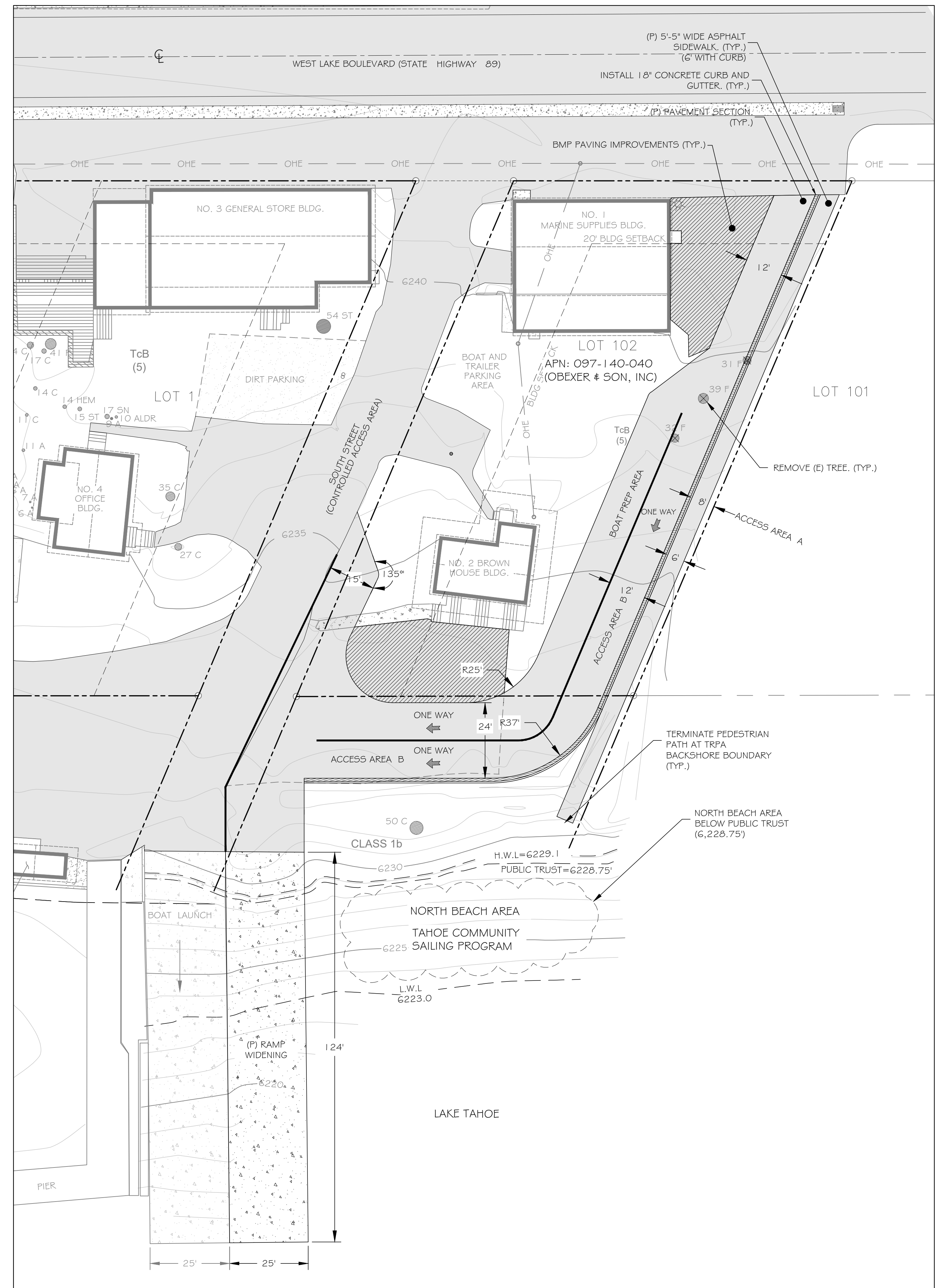
PROPOSED PROJECT AREA
SOUTH BEACH PUBLIC ACCESS
SEE SHEET C1.

PROPOSED PROJECT AREA
NORTH BEACH PUBLIC ACCESS
SEE SHEET C1.





SOUTH BEACH PUBLIC ACCESS
SCALE: 1"= 20'-0"



NORTH BEACH PUBLIC ACCESS
SCALE: 1"= 20'-0"